

APPEAL NO. 033002
FILED DECEMBER 30, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 21, 2003. The hearing officer decided that the respondent (claimant herein) had disability as a result of his _____, injury from April 3, 2003, through the date of the CCH. The appellant (carrier herein) files a request for review in which it argues that the hearing officer's finding of disability was contrary to the evidence, which established that the claimant was not working for the employer because he had been discharged for cause. The claimant responds that there was conflicting evidence regarding the reason for the claimant's termination from employment, including evidence that the employer had entered into an out of court settlement with the claimant in which the claimant agreed not to pursue a claim for wrongful discharge.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

It is undisputed that the claimant sustained a compensable injury. The only issue is whether the claimant has had disability, which is defined in Section 401.011(16) as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Conflicting evidence was presented at the CCH on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Apparently the hearing officer was persuaded by the evidence that the claimant met his burden of proof on the disability issue. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge